

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT VENCENT VASQUEZ,

Plaintiff,

v.

No. CV 21-1064 RB/CG

NEW MEXICO CORRECTIONS DEPARTMENT, et al.,

Defendants.

ORDER DIRECTING RESPONSE REGARDING DUPLICATE CLAIM

THIS MATTER is before the Court on Plaintiff Robert Vazquez's Prisoner Civil Complaint (the "Complaint"), (Doc. 1-2), originally filed in state court on January 28, 2021. Mr. Vasquez is incarcerated and proceeding *pro se* in this case. He alleges fellow inmates stabbed him and various prison officials failed to address the emergency or his medical needs. Mr. Vasquez filed a federal action in 2020 that raises near-identical claims. *See Vazquez v. Tafoya-Lucero*, 20-cv-0612 RB-KRS. Those claims survived initial review, and Mr. Vasquez has retained counsel in that case.

Mr. Vasquez filed the instant *pro se* Complaint in New Mexico's First Judicial District Court after filing Case No. 20-cv-0612 RB-KRS, but before he learned the first federal case survived initial review and before he retained counsel. The instant *pro se* Complaint was then removed to this Court, and Mr. Vasquez's attorney advised Clerk's Office staff that he does not intend to enter an appearance in this case. Based on this procedural posture, and in light of the counseled litigation in Case No. 20-cv-0612 RB-KRS, it is unclear whether Mr. Vasquez still intends to prosecute the instant *pro se* Complaint. Such information is relevant to whether, and how, Mr. Vasquez is entitled to proceed based on any duplicate claims. If Mr. Vasquez wishes to prosecute the instant

pro se Complaint (Doc. 1-2), he shall file a notice to that effect by **July 5, 2022**. Mr. Vasquez does not need to take any further action in this case if he only intends to pursue the counseled litigation in Case No. 20-cv-0612 RB-KRS. The failure to timely respond to this Order will result in dismissal of this *pro se* case without prejudice. Such dismissal will have no impact on the counseled litigation in Case No. 20-cv-0612 RB-KRS.

IT IS ORDERED that if Mr. Vasquez still wishes to pursue this *pro se* case, he shall file a written notice to that effect by **July 5, 2022**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE